

REMARKS/ARGUMENTS

Claims 1-2, 4-12, 14-23 and 25-27 remain in the application for further prosecution.

Claims 1, 2, 8, 12, 26 and 27 have been amended.

Claim Rejection - 35 U.S.C. § 103

Claims 1-2, 5-8, 11-12, 15-23 and 26-27 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,564,700 ("Celona") in view of U.S. Patent No. 5,538,252 ("Green") in yet further view of U.S. Patent No. 5,344,144 ("Cannon '144").

Claims 4, 9-10, 14 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Celona in view of Green in yet further view of Cannon '144, in yet further view of U.S. Patent No. 6,800,026 ("Cannon '026").

Personal Interview and Interview Summary

The Applicant notes with appreciation the interview conducted with Examiner Mosser on July 10, 2008. In the Interview, applicant reviewed the features of proposed amended claim 1 in view of the cited Green, Celona and Cannon '144 references. The Examiner agreed to consider further arguments and claim amendments to distinguish over such references.

The pending application is directed toward a separate side-wager option making player eligible for multi-level progressive award based only on a single play of the basic game. The multi-level progressive award includes the possibility of different progressive awards defined as separate progressive based awards each triggered by a different fundamental outcome in the basic game.

Celona does not give the player a separate control to make a separate side-wager, the so-called side-wager in Celona is simply part of the same base wager. Green has been cited as disclosing a multi-level progressive award triggered by a side bet (press bet). As discussed at the

interview, Applicant believes that the multi-level progressive award in Green is not defined by t and one of ordinary skill would not be able to deduce the mechanics of such an award from the Green specification. At best the multi-level progressive jackpot is described as “the player achieving a desired payable chip or the highest payable chip, receiving all or a portion of the jackpot amount.” (Col. 11, ll. 17-20). Green is silent as to whether the multi-level progressive jackpot is actually two different jackpots driven from different jackpot pools as in the present claims. Applicant respectfully submits that Green’s multi-level jackpots are simply different valued jackpots (desired payable chip or highest payable chip) that are proportional to the player’s press bets and derived from the same jackpot pool, i.e. a \$1 press bet will award one amount, but a \$2 press bet will award double that amount. (Col. 11, ll. 22-25). Further, the award is awarded based on multiple wins in the basic game as the press chip count reaches a payable chip. (Col. 11, ll. 53-65). Thus, the Green award is triggered from the outcomes in multiple games played and not the outcome from a single game.

Applicant has amended claims 1, 8, 12 and 26 to require that the multi-level progressive jackpots are awarded only on a single play of the basic game. The combination of Celona, Green and Cannon ‘144 would not anticipate these elements because the press bet of Green requires the outcomes of multiple games to trigger a payable chip and therefore an award of the jackpot. As explained above, Green does not disclose a jackpot that is triggered via a side bet for the outcome of a single play of the basic game and therefore the amended claims are allowable over the combination of references.

Applicant further submits that one of ordinary skill would not combine Celona, Green and Cannon ‘144. First, the nature of the multi-level progressive, as it may be understood in Green would teach away from the combination of Green with Cannon ‘144. As explained above,

Green's conception of a multi-level jackpot is a variable amount depending on the press chip from the same jackpot pool. In contrast, Cannon '144 discloses different percentage contributions to different jackpot pools. (Col. 4, ll. 13-40). Green also does not specify how the amounts are collected for the jackpot that constitutes the award pool for the multi-level progressive other than a teaching that all press bets form a common pool. One of ordinary skill in the art would not have any motivation to combine a percentage formula method in Cannon '144 assuming multiple jackpot pools to a single progressive award pool as disclosed in Green.

Second, the nature of the progressive award pool in Green is inconsistent with the formulas disclosed in Cannon '144. Green assembles the progressive pool via a set contribution but does not cap the progressive pool but makes the jackpot payoff proportional to the bet size itself. (Col. 11, ll. 31-45). Thus, Green cannot use the percentage formula in Cannon '144 because the nature of proportional payoff could exceed the amount in the progressive prize pool. Thus one of ordinary skill would not combine Green's prize structure with Cannon '144.

Third, Green teaches a fundamentally different game than Celona and Cannon '144. Celona and Cannon '144 do not teach the availability of a side bet but are focused on single game outcomes to trigger the progressive award. In contrast, the multi-level progressive award in Green is awarded from the outcomes from multiple games. The amended claims now require outcomes from a single to cause the progressive award. One of ordinary skill in the art would not combine the attributes of a concept spread over multiple game outcomes of Green with single game outcome concepts such as Celona and Cannon '144.

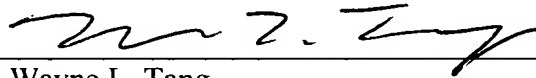
Conclusion

It is Applicant's belief that all of the claims are now in condition for allowance and actions towards that effect is respectfully requested.

If there are any matters which may be resolved or clarified through a telephone interview, the Examiner is respectfully requested to contact the undersigned attorney at the number indicated. It is believed that no fees are presently due; however, should any additional fees be required (except for payment of the issue fee), the Commissioner is authorized to deduct the fees from Nixon Peabody Deposit Account No. 50-4181, Order No. 247079-000225USPT.

Respectfully submitted,

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